IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28..11..2007

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THE HONOURABLE MR. JUSTICE K. CHANDRU

Writ Petition Nos.35960 and 35961 of 2007
and
M.P.Nos.1 and 2 of 2007 in respective W.Ps.

R.M. Seenan .. Petitioner in both W.Ps.

Vs.

1. The Vellore District Committee of Common
Cadre for Secretaries of P A C Bs
Rep. by its Joint Registrar of Co-op. Societies /
Chairman (Full Additional charge)
Vellore Region, Collectorate Complex
Vellore

2. V G 60 Omakuppam Primary Agricultural
Co-op. Bank Ltd.
Vaniyambadi Taluk, Vellore
Rep. by its Special Officer

3. V. Devaki
Special Officer
Vellore District Central Co-op. Bank Ltd. Cum
Joint Registrar of Co-operative Societies /
Chairman (Full Additional charge)
Vellore Region
Collectorate Complex
Vellore .. Respondents in both W.Ps.

Prayer: Petitions filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari calling for the records relating to the charge memo Na. Ka. No. 345/06 A1 dated 07.11.2007 and 18.10.2007 respectively passed by the first respondent and quash the same.

For Petitioner : Mr. S. Venkataraman

For Respondents No.1 and 2 : Mrs. Bhavani Subbaroyan, AGP

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C O M M O N O R D E R

The challenge in these two writ petitions is to the charge memo dated 07.11.2007 and the suspension order dated 18.10.2007 passed against the petitioner. Admittedly, in both the cases, orders have been passed by the Joint Registrar, Vellore Region / Chairman of the Common Cadre authority holding full in charge.

2. Heard the arguments of Mr. S. Venkataraman, learned counsel appearing for the petitioner and Mrs. Bhavani Subbaroyan, learned Additional Government Pleader taking notice for the respondents, and have perused the records.

3. Mr. S. Venkataraman, learned counsel appearing for the petitioner, contended that the third respondent, who has been made as a party by name, is only a Registrar in-charge and, therefore, she cannot discharge the role of a Common Cadre Authority in terms of G.O. Ms. No. 55, Co-operation, Food and Consumer Protection Department dated 24.3.2000.

4. Rule 3 of the said G.O. prescribes the composition of the common cadre and in the said Rule, it is stated pending the constitution of the committee, as to who should be the Cadre Authority and the same is extracted below:

> "Cadre Authority is the committee as provided in the Section 75 of the Act. Pending Constitution of the Committee, under first proviso to sub section (3) of Section 75 of Tamil Nadu Cooperative Societies Act, the Joint Registrar of Cooperative Societies in the Region concerned shall be the "Cadre Authority" in respect of Primary Agricultural Cooperative Banks for a period of three years from the date of coming into force of these regulations."

5. Learned counsel submits that so long as the cadre authority in terms of Section 75(3) of the Tamil Nadu Co-operative Societies Act read with Rule 3 of G.O. Ms. No.55 Co-operation, Food and Consumer Protection Department dated 24.3.2000 had not passed the impugned charge memo and suspension, the same are invalid. The learned counsel also submits that the moment the third respondent has become a Special Officer, she will lose the status of the Joint Registrar and on that ground also, the impugned orders are unsustainable. The learned counsel also submitted that each time, there must be a specific delegation made by an officer declaring the Joint Registrar as a common Cadre Authority and that has not been done in the present case.

6. The learned counsel further submitted on the strength of the judgment of the Division Bench of this Court in C.Baskaran v. The

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District Collector, Trichy and another [1997 W.L.R. 33] that an Officer in-charge cannot assume the role of a full fledged authority. That judgment arose under the context where a Collector in-charge can take the functions of a Collector in the grant of Community Certificate.

7. However, in the disciplinary jurisprudence, a person holding full in-charge can take appropriate action and it does not deprive them to invoke the power of suspension and framing charge memo. Further, merely because the third respondent has become a Special Officer, she does not cease to be a Government servant because the post of Special Officer is created by an Act of Legislature to hold temporarily the office of the Board of Directors in case of a superseded society and such officers are sent only on foreign service and their basic post in the State Government is kept in tact. Therefore, the submission of the learned counsel that the moment the third respondent becomes a Special Officer, she will cease to be a Joint Registrar cannot be accepted.

8. The last submission that until such time the committee is formed in terms of Section 75(3) comprising of several persons, no action can be taken, is only stated to be rejected. If the argument of the learned counsel appearing for the petitioner is accepted, then the non-officials, who are to be in the Committee, will not be available until the Societies are under the control of the Special Officer. In the present case, the Board of Directors of the Society have been superseded by the Act of Legislature and the question of inclusion of non-officials in the Committee does not arise. In fact, Rule 3 of G.O. 55 itself, conscious of the fact, permits ex-officio functioning by respective authorities. Therefore, the submission made by the learned counsel for the petitioner is devoid of merits

9. In view of the above, both the writ petitions are misconceived and accordingly, stand dismissed. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1. The Joint Registrar of Co-op. Societies /
   Chairman (Full Additional charge)
   Vellore District Committee of Common
   Cadre for Secretaries of P A C Bs
   Vellore Region
   Collectorate Complex
   Vellore

2. The Special Officer
   V G 60 Omakuppam Primary Agricultural
   Co-op. Bank Ltd.
   Vaniyambadi Taluk, Vellore

3. Special Officer
   Vellore District Central Co-op. Bank Ltd. Cum
   Joint Registrar of Co-operative Societies /
   Chairman (Full Additional charge)
   Vellore Region
   Collectorate Complex
   Vellore

+ 1 CC To Mr.S.Venkataraman, Advocate SR NO.70913

+ 1 CC to the Government Pleader SR NO 70796

W.P.Nos.35960 and 35961 of 2007

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